

**Nonresident Withholding Exchange Affidavit****597-E**

Attach this form to the back of Form 597-W.

Part I To be completed for a **NONSIMULTANEOUS** Internal Revenue Code (IRC) Section 1031 exchange. Please type or print.

Name of transferor/seller		Name of transferee/buyer	
Name of intermediary (include name of the contact person for the intermediary)		Telephone number of intermediary ()	Fax number of intermediary ()
Address, state and ZIP Code of intermediary			PMB no.
Address of California real estate being sold		Adjusted basis of California real estate being sold \$	
Address or location of replacement real estate			

Transferor/Seller and Intermediary Agreement

The undersigned transferor/seller hereby certifies, under penalties of perjury, that it is the intent of the transferor/seller to treat the transfer of this property as the first part of a nonsimultaneous IRC Section 1031 exchange.

The parties agree that:

- If the exchange takes place and the total sales price exceeds \$100,000, the amount required to be withheld will be the lesser of 7% of any cash or cash equivalent received by the transferor/seller (or beneficiary) or 3 1/3% of the total sales price. Withholding is required only if the cash or cash equivalent exceeds \$1500.
- If the exchange does not take place or if the exchange does not qualify for nonrecognition treatment, the amount required to be withheld will be 3 1/3% of the total sales price of the real estate.

The transferor/seller further agrees to:

- File a California tax return reporting the transaction; and
- Notify the Franchise Tax Board (FTB), Nonresident Withholding Section if the exchange does not take place or does not qualify for nonrecognition treatment. The transferor/seller must notify the FTB within 10 days after the expiration of the statutory period allowed for exchanges.

The intermediary or other entity in control of the funds agrees to:

- Be liable for withholding the amount specified above; and
- Remit all withheld amounts to the FTB using Copy A of Form 597, Nonresident Withholding Tax Statement for Real Estate Sales. Get Form 597 for information on remitting the amount withheld.

Each nonresident transferor/seller participating in the IRC Section 1031 exchange must sign this affidavit.

▶ Signature of transferor/seller	Date	▶ Signature of transferor/seller	Date
▶ Signature of intermediary		▶ Title	Date

General Information**New Form Numbers**

This form was formerly numbered Form 597-B, Nonresident Withholding Exchange Affidavit. This form should be attached to a completed Form 597-W, Withholding Exemption Certificate and Nonresident Waiver Request for Real Estate Sales. Form 597-W is also a new form that replaces both Form 597-A, Nonresident Withholding Waiver Request for Real Estate Sales and Form 590-RE, Withholding Exemption Certificate for Real Estate Sales.

Private Mailbox (PMB) Numbers

If you lease a mailbox from a private business rather than from the United States Postal Service, enter your PMB number in the field labeled "PMB no."

Purpose

Use this form when a transfer is intended to be an IRC Section 1031 exchange. It must be attached to Form 597-W, Withholding Exemption Certificate and Nonresident Waiver Request for Real Estate Sales, when a seller requests a withholding waiver because an exchange is taking place.

Use this form for common exchange transactions only. If the transaction involves multiple properties or a combination of simultaneous/nonsimultaneous exchanges or if you have questions, call the FTB,

Nonresident Withholding Section Automated telephone service (toll-free in the United States) at (888) 792-4900 or (not toll-free) at (916) 845-4900.

The appropriate agreement for the type of transaction (nonsimultaneous in Part I or simultaneous in Part II) must be completed and signed by the transferor/seller and one of the following: the intermediary; the transferee/buyer; or the entity in control of the funds. Use Form 597-I, Nonresident Withholding Installment Sale Agreement, for an IRC Section 1031 exchange with an installment provision.

Where to File This Form

Send this affidavit and inquires to:

NONRESIDENT WITHHOLDING SECTION
FRANCHISE TAX BOARD
PO BOX 651
SACRAMENTO CA 95812-0651
FAX (916) 845-4831

For more information you may access the FTB website at: www.ftb.ca.gov

Assistance for persons with disabilities: The FTB complies with provisions of the Americans with Disabilities Act. Persons with hearing or speech impairments: from voice phone call (800) 735-2922, or from TTY/TDD call (800) 822-6268.

Part II To be completed for a **SIMULTANEOUS** IRC Section 1031 exchange. Please type or print.

Name of transferor/seller		Name of transferee/buyer	
Name of entity in control of funds	Telephone number	Fax number	
Address, state, and ZIP Code of the entity in control of funds (include name of the contact person for the entity in control of funds)			PMB no.
Address of California real estate being sold		Adjusted basis of California real estate being sold \$	
Address or location of replacement real estate			

Transferor/Seller and Transferee/Buyer or Other Entity in Control of Funds Agreement

The undersigned transferor/seller hereby certifies, under penalties of perjury, that it is the intent of the transferor/seller to treat the transfer of this property as a simultaneous IRC Section 1031 exchange.

The parties agree that:

- a) If the exchange takes place and the total sales price exceeds \$100,000, the amount required to be withheld will be the lesser of 7% of any cash or cash equivalent received by the transferor/seller (or beneficiary) or 3 1/3% of the total sales price.
- b) If the exchange does not take place or if the exchange does not qualify for nonrecognition treatment, the amount required to be withheld will be 3 1/3% of the total sales price of the real estate.

The transferor/seller further agrees to:

- a) File a California tax return reporting the transaction; and
- b) Notify the Franchise Tax Board (FTB), Nonresident Withholding Section if the exchange does not take place or does not qualify for nonrecognition treatment. The transferor/seller must notify the FTB within 10 days after the expiration of the statutory period allowed for exchanges.

The transferee/buyer or other entity in control of the funds agrees to:

- a) Be liable for withholding the correct amount specified above; and
- b) Remit all withheld amounts to the FTB using Copy A of Form 597, Nonresident Withholding Tax Statement for Real Estate Sales. Get Form 597 for information on remitting the amount withheld.

Each nonresident transferor/seller participating in the IRC Section 1031 exchange must sign this affidavit.

► _____ Signature of transferor/seller	_____ Date	► _____ Signature of transferor/seller	_____ Date
► _____ Signature of transferee/buyer or other entity in control of funds		► _____ Title	_____ Date